



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

July 10, 2012

Naval Facilities Engineering Command, Southwest
Attention: HSTT EIS/OEIS Project Manager – EV21.CS
1220 Pacific Highway, Building 1, Floor 3
San Diego, CA 92132-5190

Subject: Hawaii-Southern California Training and Testing Draft Environmental Impact Statement/Overseas Environmental Impact Statement, (CEQ # 20120143)

In accordance with our responsibilities under Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA), the Environmental Protection Agency (EPA) has reviewed the subject document. The DEIS will also serve as the National Marine Fisheries Service's NEPA documentation for the rule-making process under the Marine Mammal Protection Act (MMPA) to issue any incidental take authorizations because of the potential effects of the Navy's training and testing activities on species protected by Federal law.

We acknowledge the critical importance that training and testing plays in meeting the U.S. Navy's mission. We thank the Navy for its assistance with our review and for providing a corrected Table 3.5-14. We have rated the DEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed "Summary of Rating Definitions"), based on the adverse impacts to marine resources described in the DEIS, and our concern that the information provided in the document does not sufficiently assess such impacts. While we defer to the National Marine Fisheries Service's expertise regarding the likely adverse affect of proposed project on marine mammals and sea turtles, we believe that the FEIS would benefit from improved and corrected disclosure of impacts. Please see the enclosed detailed comments for more information regarding our concerns.

EPA appreciates the opportunity to review this DEIS. When the Final EIS is released for public review, please send one copy to the address above (mail code: CED-2). If you have any questions, please contact me at (415) 972-3521 or Tom Kelly, the lead reviewer for this project, at 415-972-3856 or kelly.thomasp@epa.gov.

Sincerely,

A handwritten signature in blue ink, reading "Kathleen Martyn Goforth".

Kathleen Martyn Goforth, Manager
Environmental Review Office (CED-2)

Enclosures: Summary of EPA Rating Definitions

Detailed Comments

cc (via email): Michelle Magliocca, NMFS
Jayne Lefors, NMFS

US EPA DETAILED COMMENTS ON THE HAWAII-SOUTHERN CALIFORNIA TRAINING AND TESTING ENVIRONMENTAL IMPACT STATEMENT/OVERSEAS ENVIRONMENTAL IMPACT STATEMENT (DEIS/OEIS), CALIFORNIA AND HAWAII, JULY 2012

Acoustic Impacts

The DEIS frequently mentions the Navy Acoustic Effects Model as the source of the estimates of impacts on marine mammals and sea turtles. The Navy's website contains a supporting technical document¹ that discusses the model and its results. While the supporting technical document appears consistent in many respects with the DEIS, the hours of sonar operation modeled in the technical report (Table 14) differ from the hours of sonar use in the DEIS (Table 3.0-8) for some source classes. For example, the technical report indicates the hours of operation for Sonar Source Class LF-4 (Low-frequency sources equal to 180 dB and up to 200 dB) for the preferred alternative is 87 hours, while the DEIS indicates that number is 2,157. Similarly, the number of mammal species experiencing permanent threshold shift (i.e., permanent noise-induced hearing damage) differs between the reports. For example, the technical report indicates that annual testing events would result in permanent threshold shift for nearly 5,850 Short-Beaked Common Dolphins (Table 19), while the DEIS indicates that number would be 309 (Table 3.4-14).

Recommendation:

The FEIS should correct any discrepancies between the technical report and the FEIS.

Mitigation Measures

Ramp-Up

The DEIS clarifies the distinction between training and testing in Section 1.4, emphasizing the need for training to "be as realistic as possible to provide the experiences so important to success and survival" (p. 1-5). It separates testing into several categories: scientific research and testing, private contractor testing, developmental testing, operational testing, fleet training support, follow-on test evaluation and maintenance and repair testing (1-7). We note that, under the preferred alternative, sonar *testing* results in more level A harassment to marine mammals than does sonar *training*.

Mitigation considered but rejected from the DEIS discusses the concept of sonar "[r]amp-up procedures, (slowly increasing the sound in the water to necessary levels)" (p. 5-55), which appears to be a process that greatly reduces the effects of sonar for many testing processes. Ramp up procedures are dismissed for training because they would not allow the

¹ Determination of Acoustic Effects on Marine Mammals and Sea Turtles for the Atlantic Fleet Training and Testing Environmental Impact Statement/Overseas Environmental Impact Statement. (NUWC-NPT Technical Report 12,084) Naval Undersea Warfare Command Division, Newport.

Navy to “train as they fight,” but the DEIS also states, “ramp-up procedures have been used in testing.”

Recommendation:

The FEIS should include a more thorough discussion of ramp-up, either as a mitigation measure or an operational procedure, for testing (not training) activities listed in Chapter 2. We recognize that ramp-up would not be appropriate in many sonar testing procedures (e.g. where testing is concurrent with training), but the FEIS should disclose the circumstances under which it would be compatible with testing.

Identification of Cautionary Areas and Coral Reef Resources

The DEIS discusses the designation of a humpback whale cautionary area, “which consists of a 5 km (3.1 miles) buffer zone that has been identified as having one of the highest concentrations of humpback whales during the critical winter months” (p. 5-45). From December 15 to April 15, the cautionary area will only be used for training if approval is granted by the commander of the U.S. Pacific Fleet, taking into account “the Navy’s commitment to fully consider and balance mission requirements with environmental stewardship” (p. 5.45-46). It is not clear whether the area identified in the DEIS as a cautionary area is within or consistent with the boundaries of the Hawaiian Islands Humpback Whale National Sanctuary managed by NMFS.

The DEIS also includes a mitigation measure to limit training and testing within 350 yards of coral reefs (p. 5-46). While it discusses the inclusion of coral reefs and other protected areas in the Navy’s mapping program, known as the Protective Measures Protocol Assessment, the DEIS does not include a map of these areas.

Recommendation:

The FEIS should clarify the relationship, if any, of the Humpback Whale Cautionary Area to the Hawaiian Islands Humpback Whale National Sanctuary, and include a map of the Area, as well as a map of coral reefs that will be avoided. By including these maps in the FEIS, or making them available through a link similar to DEIS technical reports, the Navy and NMFS could invite comments on the accuracy or thoroughness of the maps from researchers and ocean protection groups.

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.

